BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

GLENDA NICI	KERSON)
	Claimant)
VS.)
) Docket No. 261,942
DILLARDS)
F	Respondent)
AND)
)
	TUAL FIRE INSURANCE COMPANY)
li li	nsurance Carrier	

ORDER

Claimant appeals from the preliminary hearing Order Denying Medical Treatment entered by Administrative Law Judge Brad E. Avery on June 11, 2001.

Issues

Judge Avery found that claimant failed to prove she suffered accidental injury arising out of and in the course of her employment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Board finds that the Order Denying Medical Treatment by the ALJ should be affirmed. Respondent presented evidence to dispute claimant's allegations, both as to the mechanism of injury and as to whether an accident or series of accidents occurred at work. The ALJ apparently rejected claimant's testimony that she suffered an aggravation of her non-work related hand injury from repetitive use through her last day of work at Dillards. The greater weight of the medical evidence likewise supports this conclusion. Claimant consistently provided the examining and treating physicians with a history of a non-work related accident at Walgreen's in June 2000. In addition, claimant told Dr. Lynn D. Ketchum that her job at Dillards did not require repetitive work nor any heavy lifting.

After reviewing the record compiled to date, the Board concludes claimant has failed to prove that her present hand condition is more probably than not due to her work activities at Dillards. The preliminary decision of the ALJ denying medical treatment should be affirmed for the reason specified in the ALJ's preliminary hearing order.

IT IS SO ORDERED

As provided by the Act, preliminary hearing findings are not binding but are subject to modification upon a full hearing on the claim.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order Denying Medical Treatment entered by Administrative Law Judge Brad E. Avery on June 11, 2001, should be, and the same is hereby, affirmed.

II IO OO ONDERED.		
Dated this	day of September 2001.	

BOARD MEMBER

C: Bruce Alan Brumley, Attorney for Claimant John M. Graham, Jr., Attorney for Respondent Brad E. Avery, Administrative Law Judge

Philip S. Harness, Workers Compensation Director